

Amendment No. 1 to SB0045

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 45

House Bill No. 39*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following as a new, appropriately designated section:

(a) It is unlawful for:

(1) Any commercial entity, or the entity's employee or representative acting on behalf of the entity, to knowingly sell a product containing dextromethorphan to a person that the employee or representative knows or has reason to know is less than eighteen (18) years of age and is not an emancipated minor, as defined in § 39-11-106. However, no employee, representative, or person acting on behalf of a commercial entity shall be in violation of this act, or be subject to an adverse employment action for a violation of this act, unless the employee, representative, or person has completed an employer-provided course of instruction that is specifically designed to enable the employee, representative, or person to identify products containing dextromethorphan and distinguish those products from similar products that do not contain dextromethorphan; or

(2) Any person who is less than eighteen (18) years of age and who is not an emancipated minor, as defined in § 39-11-106, to purchase a product the person knows or should know contains any quantity of dextromethorphan with the intent to use the product in a manner inconsistent with the recommended dosage and manner of use indicated on the container.

(b)

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(1) This section requires an entity, employee, or representative to manually obtain and verify proof of age or emancipation pursuant to subsection (c) as a condition of sale. Nothing in this section shall be construed to require additional compliance requirements, including placement of products in a specific place within a store, other restrictions on consumers' direct access to products, or the maintenance of transaction records.

(2) This section shall not apply to a product containing dextromethorphan that is sold pursuant to a valid prescription, including a pharmacist-generated prescription issued pursuant to § 63-10-206.

(c) Before completing a retail sale of a product containing dextromethorphan, the seller shall require the purchaser to present:

(1) Valid government-issued photo identification proving that the purchaser is at least eighteen (18) years of age, unless from the purchaser's outward appearance the seller would reasonably believe the purchaser to be thirty (30) years of age or older; or

(2) Proof of emancipation, if the purchaser is less than eighteen (18) years of age but is an emancipated minor.

(d) A violation of subsection (a) is punishable by a civil penalty of not more than one hundred dollars (\$100) for a first violation and five hundred dollars (\$500) for a second or subsequent violation.

(e) This section shall not apply to a product containing dextromethorphan that is:

(1) Delivered or dispensed at a facility licensed under title 68, chapter 11, part 2, or title 33, chapter 2, part 4; or

(2) Delivered or dispensed by a licensed healthcare practitioner to an inmate at a jail or correctional facility.

SECTION 2. This act shall preempt any local ordinance regulating the retail sale of products containing dextromethorphan enacted by a local governmental entity of this state. Products containing dextromethorphan shall not be subject to further regulation by a local governmental entity.

SECTION 3. This act shall take effect January 1, 2016, the public welfare requiring it.